

# HOUSE BILL REPORT

## HB 1070

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### As Passed House:

March 4, 1999

**Title:** An act relating to the general contractor/construction manager procedure for school districts.

**Brief Description:** Authorizing the general contractor/construction manager contracting procedure for school district capital projects.

**Sponsors:** Representatives Romero and D. Schmidt; by request of Alternative Public Works Methods Oversight Committee.

### Brief History:

#### Committee Activity:

State Government: 1/26/99, 2/16/99 [DP].

#### Floor Activity:

Passed House: 3/4/99, 95-0.

### Brief Summary of Bill

- Allows school districts to award contracts for public works projects using the general contractor/construction manager process for very large projects and a few demonstration projects.

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## HOUSE COMMITTEE ON STATE GOVERNMENT

**Majority Report:** Do pass. Signed by 8 members: Representatives McMorris, Republican Co-Chair; Romero, Democratic Co-Chair; Campbell, Republican Vice Chair; Miloscia, Democratic Vice Chair; Dunshee; Haigh; Lambert and D. Schmidt.

**Staff:** Steve Lundin (786-7127).

### Background:

Differing procedures are established for state agencies and various local governments to award contracts for public works projects. Frequently, contracts for public works projects of a relatively small estimated cost are awarded in any manner, contracts for

public works of a medium estimated cost may be awarded to the lowest responsible bidder using a small works roster process, and contracts for public works of a higher estimated cost are awarded to the lowest responsible bidder using a formal competitive bidding process with sealed bids.

Several different state agencies and local governments have been authorized to use alternative public works contracting procedures to award contracts on certain public works contracts of very large dollar values. One alternative procedure is the design-build procedure. Another alternative procedure is the general contractor/construction manager procedure. Authority to use these alternative procedures terminates on July 1, 2001. A temporary independent oversight committee is created to review these alternative bidding procedures and recommend changes in contracting laws to the Legislature.

The general contractor/construction manager procedure involves the following steps:

- o Publishing a notice announcing that the procedure will be used, with opportunity for public comments.
- o Publishing a notice calling for bids, that includes a description of the process and relative weight of factors that will be used to evaluate proposals.
- o Creation of a committee to evaluate bid proposals that uses this process to select between three and five finalists to submit best and final proposals.
- o Scoring the final and best proposals that are submitted that measures quality and technical merits on a unit price basis and selecting the finalist on the basis of responsiveness and lowest price from among those finalists who are able to produce plans and specifications meeting project requirements.
- o Directly negotiating with the selected contractor to establish a satisfactory maximum allowable construction cost. Negotiations may be terminated with the selected contractor if an agreement is not reached and opened with the next highest scored firm until an agreement is reached or the process terminated.
- o Contracts for subcontractors are awarded to the responsible bidder submitting the lowest responsive bid.

The Department of General Administration, University of Washington, Washington State University; every county with a population of greater than 450,000 (King, Pierce, and Snohomish counties), every city with a population in excess of 150,000 (Seattle, Tacoma, and Spokane), port districts with a population in excess of 500,000 (Port of Seattle, and Port of Tacoma), and a public facilities district constructing a baseball stadium may use the general contractor/construction manager process on any

project with an estimated cost of \$10 million or more. In addition, those entities may also use the "general contractor/construction manager" process on several demonstration projects of between \$3 million and \$10 million in estimated cost.

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**Summary of Bill:**

School districts are allowed to use the general contractor/construction manager process to award contracts for public works projects in excess of \$10 million that are approved by the school district project review board. In addition, the school district project review board may allow contracts to be awarded by school districts using the general contractor/construction manager process on up to five demonstration projects with an estimated cost of between \$5 million and \$10 million. A single school district may not use this process on more than one demonstration project unless a variety of factors are met, including consideration of the overall demand for the demonstration projects.

The School District Project Review Board is established to approve school district use of the general contractor/construction manager process in awarding contracts for public works projects. The board consists of eight persons selected by the Independent Oversight Committee and consists of one representative from each of the following groups: (1) The Office of the Superintendent of Public Instruction; (2) the Office of Financial Management; (3) the construction industry; (4) the specialty contracting industry; (5) the design industry; (6) a public body that has used the alternative contracting procedures; (7) school districts with 10,000 or more annual average full-time equivalent students; and (8) school districts with less than 10,000 or more annual average full-time equivalent students.

A variety of factors are established for the School District Project Review Board to authorize school districts to use the general contractor/construction manager process, including past construction activity and an explanation of why the use of this process is in the public interest. The School District Project Review Board must prepare a report reviewing school district use of this process.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Fast growing suburban school districts will use this process. The complexity of modernization projects is the impetus for this. This enables us to better respond to complex projects. This is another tool that can be used. A number of

school districts have very sophisticated personnel who can effectively use this process. This gives us added flexibility, is proven and successful, faster, and will cost less. The contractor is brought into the process at the beginning. An oversight committee is in place. This is a limited proposal.

**Testimony Against:** (Concerns) There is some merit to this being used on school projects if sophisticated people are involved, but a public policy concern exists. I worry about favoritism and graft. Final reports are not in on experiences with this process. A bigger contractor could have his people lay pipe that my guys do. Water and sewer districts could ask for legislation authorizing them to use the same process.

**Testified:** (In support) Edward Peters, Mount Vernon School District; Richard Otteson Prentke, Perkins Cole - Washington State School Construction Alliance; Denise Stiffarm, Preston Gates and Ellis, King County School Coalition; Steve Crawford, Issaquah School District; Carter Bagg, Superintendent of Public Instruction; Duke Schaub, Association of General Contractors; Charlie Brown, King City School Coalition; and Fred King, Rudney Eng, Gary Chandler, and Doug Holen, Alternative Public Works Methods Oversight Committee.

(Concerns) Dave Ducharme, Utility Contractors Association of Washington.